

RECEIPT NUMBER

200 520950

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

12

D'Quinn N. Young and
Derrick N. Young

Plaintiffs,

-vs-

JUDGE : Rosen, Gerald E.
DECK : S. Division Civil Deck
DATE : 02/07/2005 @ 14:50:21
CASE NUMBER : 2:05CV70487
CMP YOUNG ET AL V. CITY OF DET
(DA)

City of Detroit,
a municipal corporation, and ~~Mediator Judge Steven D. Bana~~
City of Detroit Police Officers,
Barbara Simon and John Doe 1, John Doe 2,
Individually, and in their official capacities,

Jointly and Severally,

Defendants.

PAUL M. HUGHES, P 36421
Attorney for Plaintiffs
65 Cadillac Square, Suite 2915
Detroit, MI 48226
(313) 964-6465

05
FEB -7 P 3:01

FILED

COMPLAINT and JURY DEMAND

COMMON ALLEGATIONS

NOW COME Plaintiffs D'Quinn Young and Derrick Young, by and through their attorney, Paul M. Hughes, and for their complaint state as follows:

1. Plaintiffs, D'Quinn Young and Derrick Young, are residents of the City of Detroit, State of Michigan who bring this matter pursuant to 42 USC §1983 for violation of their constitutional rights by the Defendants.

2. Defendant City of Detroit is a municipal corporation located in the County of Wayne which operates among other things, a police department in the City of Detroit, State of Michigan.

3. Defendants Barbara Simon and John Does at all times relevant to this complaint were agents and/or employees of the Defendant City of Detroit.

4. At all times relevant herein, all individually named Defendants were acting within the scope of their employment, under their authority as police officers and under color of law.

5. The Civil Rights Act, 42 USC §1983, provides for civil liability for the deprivation of any right, privilege or immunity secured by the Constitution and laws of the United States, while committed under color of law.

6. Defendants are civilly liable to Plaintiffs pursuant to 42 USC §1983, because all the actions described in this complaint were deliberate, grossly negligent, reckless, wilful, wanton, malicious and/or intentional acts and/or omissions of Defendants, were committed under the color of law and pursuant to the customs, policies and/or practices of Defendant City of Detroit, all of which subjected Plaintiffs to deprivation of their rights, privileges and immunities secured by the United States Constitution.

7. As a direct and proximate result of the wrongful conduct and Constitutional violations by the Defendants, Plaintiffs suffered serious and permanent injuries to their body and mind, mental anguish, pain and suffering, loss of wages, loss of enjoyment of

life, humiliations, degradation and emotional injuries, all past, present and future.

8. Defendant City of Detroit and its supervisory personnel are liable for their intentional, deliberately indifferent, wilful, wanton, reckless and/or grossly negligent acts and/or omissions, which constituted customs, policies and/or practices, which resulted in the unlawful, unjustified, wrongful and unconstitutional seizure of each Plaintiffs' liberty, person and health, without due process of law, all of which proximately resulted in their injuries.

9. Defendant City of Detroit is liable under federal law for all injuries proximately caused by:

A. Intentional, willful and wanton, reckless, deliberately indifferent, grossly negligent and/or negligent acts and/or omissions committed pursuant to customs, policies, usage and/or practices which deprive citizens of their rights, privileges and/or immunities secured by the Constitutions and laws of the United States and/or of the State of Michigan, including but not limited to:

- I. Defendant's directions, policies, practices and/or customs from which the employees' and/or agents' acts or omissions were foreseeable;
- ii. conduct by such employees and/or agents in which Defendant acquiesced, explicitly or implicitly;
- iii. conduct which resulted from the failure to train or oversee the training of such employees and/or agents;
- iv. conduct of such employees and/or agents which supervisory personnel could foresee because the previous behavior of such employees and/or agents created the

potential for such acts or omissions and which were not corrected; and/or

- v. acts of such employees and/or agents which were caused by or permitted in violation of a statutory duty.

10. The events out of which this cause of action arose occurred on February 8, 2002, in the City of Detroit, State of Michigan.

11. The factual predicate of the individual Defendants' liability is as follows:

- a. the on February 8, 2002, Plaintiffs were arrested in the City of Detroit without a warrant in connection with the murder of Emmitt Harvey, Detroit Police Homicide File number 98-229.
- b. that the Plaintiffs were held until February 13, 2002 before they were taken before a magistrate at which time they were arraigned and then remanded to the Wayne County Jail.
- c. that the Plaintiffs had their preliminary exam at the 36th District Court which continued over a period of months and on August 2, 2002, the examining magistrate found there was insufficient evidence to constitute probable cause to believe the Plaintiffs had committed any crime and their case was dismissed.
- d. that the basis of the information for the issuance of the warrant against the Plaintiffs was from unreliable sources and generated in part out of a personal vendetta on the part of some of the alleged witnesses father against one of the Plaintiffs.
- e. that material statements contained in the warrant request used to obtain the warrant and to effect the arrest of the Plaintiffs was false and or were made with a reckless disregard for the truth.
- f. that the criminal prosecution brought against the Plaintiffs was brought out of malice and not for the purposes of pursuing justice.

- g. that material statements contained in the warrant request used to obtain the warrant and to effect the arrest of the Plaintiffs could have been determined as being false had they not been accepted by the officers in question with a reckless disregard for the truth.

COUNT I

VIOLATION OF RIGHT TO PROMPT ARRAIGNMENT
INDIVIDUAL POLICE OFFICER DEFENDANTS

Plaintiffs hereby reallege and incorporate by reference all of the paragraphs and counts above as if fully set forth herein word for word.

12. The Plaintiffs were arrested without a warrant on February 8, 2002 and without justification for any delay, were not taken before a magistrate until February 13, 2002.

13. That said conduct violated their right to a prompt arraignment and speedy trial.

WHEREFORE, Plaintiffs seek Judgment against Defendants, in whatever amount to which they are entitled which is reasonable, fair and just, plus costs, interest and attorney's fees, together with exemplary and/or punitive damages.

COUNT II

FALSE ARREST AND FALSE IMPRISONMENT
INDIVIDUAL POLICE OFFICER DEFENDANTS

Plaintiffs hereby reallege and incorporate by reference all of the paragraphs and counts above as if fully set forth herein word for word.

14. Defendant individual Police Officers, while at all times relevant herein acting within the scope of their employment for Defendant City of Detroit and under color of law as police officers, intentionally compelled the Plaintiffs to be

unlawfully restrained, under pretense that they had violated the law; said acts constituting false arrest and false imprisonment.

15. In making said false arrest and false imprisonment, Defendants caused the Plaintiffs to be incarcerated for a period of nearly 6 months in the Wayne County Jail.

16. That the information used to support the warrant under which the Plaintiffs was arrested was based on false information, that the police officers obtaining the warrant knew or should have known was false, but was put forth anyway either intentionally or with a reckless disregard for the truth.

17. That the Defendant police officers, while acting within the scope of their employment, knowingly and intentionally falsely arrested and imprisoned Plaintiffs without probable cause to believe that Plaintiffs had violated the law and knowing that the information obtained to get a warrant was from unreliable sources.

WHEREFORE, Plaintiffs seek Judgment against Defendants, in whatever amount to which they are entitled which is reasonable, fair and just, plus costs, interest and attorney's fees, together with exemplary and/or punitive damages.

COUNT III
MALICIOUS PROSECUTION
INDIVIDUAL POLICE OFFICER DEFENDANTS

Plaintiffs hereby reallege and incorporate by reference all of the paragraphs and counts above as if fully set forth herein word for word.

18. At all times relevant herein, Defendant individual police officers instituted criminal proceedings against the Plaintiffs.

19. There was no probable cause existing to institute the proceedings.

20. The criminal prosecution ended in favor of the Plaintiffs when the 36th District Court magistrate ruled there was insufficient evidence to establish probable cause that the Plaintiffs had committed a crime.

21. The criminal charges brought against the Plaintiffs were made with malicious motive.

WHEREFORE, Plaintiffs seek Judgment against Defendants, in whatever amount to which they are entitled which is reasonable, fair and just, plus costs, interest and attorney's fees, together with exemplary and/or punitive damages.

COUNT IV
42 USC §1983
MUNICIPAL/SUPERVISORY LIABILITY

Plaintiffs hereby reallege and incorporate by reference all of the paragraphs and counts above as if fully set forth herein word for word.

22. At all times relevant herein, Defendant City of Detroit, acting through its supervisory officers and officials, by their own customs, policies and/or practices, maintained a policy that allowed for the arrest of individuals on less than probable cause, allowed for detention of individuals arrested without warrants beyond the time necessary to obtain a warrant as a

regular matter of course and maintained and/or enforced, a policy, custom or practice of seeking warrants based on less than probable in violation of the United States Constitution, Amendments IV and XIV.

23. At all times relevant herein, Defendant City of Detroit, acting through its supervisory officers and officials, by their own customs, policies and/or practices of systematically failing to properly train, evaluate, supervise, investigate, review and/or discipline its police officers, allowed, acquiesced in, and/or encouraged the individual police officer Defendants to function as police officers and to unlawfully institute process to confront, falsely arrest and imprison, and otherwise violate Constitutional rights, thereby directly and proximately depriving Plaintiffs of their right to be free from false arrest, false imprisonment and other unreasonable intrusions against their person without due process of law, in violation of the United States Constitution, Amendments IV and XIV.

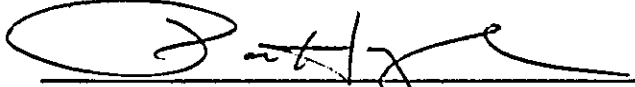
24. At all times relevant herein, Defendant City of Detroit by its directions, policies, procedures, practices and/or customs, from which the intentional, willful and wanton, reckless, deliberately indifferent, grossly negligent and/or negligent acts and or omissions of the individual officers, who were under its supervision were foreseeable, allowed, acquiesced in and/or encouraged said officers to function as police

officers and to unconstitutionally arrest and falsely imprison citizens including Plaintiffs thereby proximately causing Plaintiffs to be deprived of their liberty, and their freedom from unreasonable intrusions against their person and their right to be free from false arrest, false imprisonment and other unreasonable intrusions against their person without due process of law, in violation of the United States Constitution, Amendments IV and XIV.

25. At all times relevant herein, Defendant City of Detroit by its failure to train, supervise, discipline and/or correct the behavior of the employees and/or agents under its supervision, including but not limited to the individual officers, of which said Defendant City of Detroit knew or should have known, created the potential for the intentional, willful and wanton, reckless, deliberately indifferent, grossly negligent and/or negligent acts and or omissions of said officers, allowed, acquiesced in and/or encouraged said individual Defendants to function as police officers and to unlawfully confront, falsely arrest and falsely imprison citizens including Plaintiffs thereby proximately causing Plaintiffs to be deprived of their liberty and of their right to be free from unreasonable intrusions against their person without due process of law, in violation of the United States Constitution, Amendments IV and XIV.

Respectfully submitted,

LAW OFFICES OF PAUL M. HUGHES



Paul M. Hughes, P 36421
Attorney for Plaintiffs
65 Cadillac Square, Suite 2915
Detroit, MI 48226
(313) 964-6465

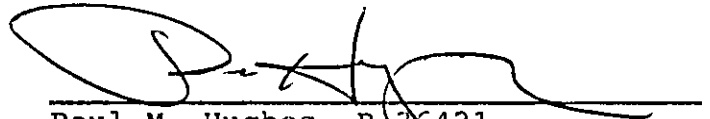
Dated: February 7, 2005

JURY DEMAND

NOW COME Plaintiffs D'Quinn Young and Derrick Young, by and through their attorney, Paul M. Hughes, who hereby demand a jury trial as to all counts alleged herein.

Respectfully submitted,

LAW OFFICES OF PAUL M. HUGHES



Paul M. Hughes, P 36421
Attorney for Plaintiffs
65 Cadillac Square, Suite 2915
Detroit, MI 48226
(313) 964-6465

Date: February 7, 2005

ORIGINAL

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

D'Quinn v. Young et al

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

WAYNE

DC163

(c) Attorney's (Firm Name, Address, and Telephone Number)

PAUL M. HUGHES (313) 642-1234
 65 OADIANE SQ., Ste. 2915
 DETROIT, MI 48226 (313) 964-6465

DEFENDANTS

City of Detroit, et al

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

WAYNE

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

GERALD E. ROSEN
 70487

II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 2 Federal Question (U.S. Government Not a Party)
- ☐ 3 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

- | | | | | | |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT

(Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (139501) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(p)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity):

42 USC 1983

Brief description of cause:

FALSE HODEST MALICIOUS PROSECUTION

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMANDS

Undetermined

CHECK YES only if demanded in Complaint:

JURY DEMAND:

Yes

No

VIII. RELATED CASE(S)

IF ANY

NA

(See instructions):

JUDGE

DOCKET NUMBER

DATE

2/7/05

SIGNATURE OF ATTORNEY OF RECORD

Paul M. Hughes P36421

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

<input type="checkbox"/>	Yes
<input checked="" type="checkbox"/>	No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

<input type="checkbox"/>	Yes
<input checked="" type="checkbox"/>	No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes :
